

## **EXHIBIT 1**

### **DEFENDANT'S FIRST RULE 26(a)(2) DISCLOSURES**



1. Documents produced by Benton Express which are Bates-stamped "Benton 001" through "Benton 971."
2. Documents produced by Atlanta Police Department.
3. Documents produced by Florida Highway Patrol.
4. Audio recording produced by Florida Highway Patrol.
5. Materials produced by Montgomery Police Department.
6. Deposition of Hazel Roby.
7. Deposition of Don Hammonds.
8. Deposition of David Justice.
9. Deposition of Barry Weems.
10. Deposition of Bill Jones.
11. All exhibits attached to these depositions.
12. Benton Express' responses to Plaintiff's First Interrogatories, Second Interrogatories, First Request for Production, Second Request for Production, First Request for Admission, and Second Request for Admission.
13. Plaintiff's Rule 26(b) Submissions, including "Initial Preliminary Report of Opinions by Roland B. Brown, CDS."

#### **SUMMARY OF FACTS**

The following is my understanding of the facts that appear to have been the subject of discovery thus far in the case:

Benton Express, Inc., is a less-than-load ("LTL") carrier that operates in several southeastern states. The company has numerous terminals located throughout its area of operation. Its operation includes "road" drivers who drive tractor-trailers between the company's terminals. The operation also includes "city" drivers who pick up and deliver goods for customers in the areas around each of the company's terminals.

Beginning in late January or early February of 2004, Craig Stephens worked as a "road" driver for Benton Express, Inc., based out of the company's Pensacola, Florida, terminal. As a "road" driver, it appears that he mostly made round-trips between the Benton Express terminals in Pensacola, Florida, and Tallahassee, Florida, and between the Benton Express terminals in Pensacola, Florida, and Atlanta, Georgia.

On Friday, April 8, 2005, Craig Stephens departed from the Pensacola terminal in a Benton Express tractor-trailer at approximately 6:00 p.m. CDT. He apparently proceeded directly to the Atlanta terminal and arrived there as expected. He then switched trailers and departed from the Atlanta terminal at approximately 12:40 a.m. EDT on Saturday, April 9, 2005. Upon departing the Atlanta terminal, he was supposed to proceed directly to the Pensacola terminal, and he was expected to arrive there sometime in the early morning of April 9, 2005.

Sometime on April 9, 2005, whether in the morning or around lunchtime, it was discovered that Mr. Stephens had not arrived at the Pensacola terminal as expected. At that point, Benton Express began attempting to determine whether there were any reasons for Mr. Stephens' delay, such as an accident or maintenance problem. The company also checked fuel records for Mr. Stephens' tractor to see if he had made any fuel purchases. During the afternoon of April 9, the company contacted the Florida Highway Patrol and reported Mr. Stephens missing. The Florida Highway Patrol issued a Be On the Look Out ("BOLO") report for Mr. Stephens and the missing tractor-trailer and indicated to the company that it would notify the state patrols of Alabama and Georgia of the situation. At various points throughout the day, the company attempted to contact Mr. Stephens by telephone or "walkie-talkie." During the night of April 9, a Benton Express manager, Glenn Clark, went searching for Mr. Stephens along his most likely route.

On Sunday, April 10, 2005, Benton Express officials continued to try to locate Craig Stephens and the missing tractor-trailer. They continued to attempt to contact Mr. Stephens by

telephone or “walkie-talkie.” During the day, Benton Express reported the missing tractor-trailer as stolen to the Atlanta Police Department. During the afternoon and evening, another Benton Express manager, Bill Jones, went searching for Mr. Stephens along his most likely route. Mr. Jones had also made the decision that he planned to relieve Mr. Stephens of duty and terminate him. Mr. Jones had another truck driver “stand by” so that he could be prepared to take over Mr. Stephens’ tractor-trailer if Mr. Stephens could be located.

The above actions to locate Craig Stephens involved individuals who appear to have been at the management level within the company. In addition to the telephone calls that initiated the BOLO report and the stolen-vehicle report, it appears that Benton Express contacted law enforcement authorities at various other points throughout the weekend as part of their efforts to locate Craig Stephens.

At approximately 6:05 a.m. CDT on Monday, April 11, 2005, Craig Stephens was involved in an accident with a vehicle driven by Ronald Roby. The accident occurred at the intersection of Interstates 85 and 65 in Montgomery, Alabama. Both Mr. Stephens and Mr. Roby were killed in the accident.

#### **OPINIONS OF BOB TYNES**

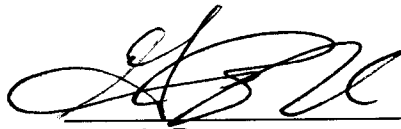
- I reserve the right to agree with any opinions stated by experts for the Plaintiff.
- I reserve the right to disagree with and/or rebut any opinions stated by experts for the Plaintiff.
- The “runs,” made by Craig Stephens prior to the events that are the subject of this case and the times logged for those runs were proper and would not cause any problems for Mr. Stephens or Benton Express with the U.S. Department of Transportation. They also would not have indicated any issue or problem to a safe and reasonably prudent motor carrier.

- Satellite-based systems, such as QUALCOMM, are used primarily by truckload carriers--not by LTL carriers such as Benton Express. Even for those carriers who use such a satellite-based system, the system is used primarily as a tool for dispatching--not as a tracking system. Such systems are easily disengaged and/or tampered with, and this has become a problem for the carriers that use them.
- Most motor carriers do not equip their tractor-trailers with a satellite-based system. Those that do use such systems do so voluntarily and at significant expense. No law, regulation, or industry standard requires motor carriers to use such systems--with the exception of vehicles transporting explosives for the U.S. Department of Defense.
- During the time that Craig Stephens was missing, Benton Express acted as a safe and reasonably prudent motor carrier by attempting to contact Mr. Stephens, searching for Mr. Stephens, and contacting the law enforcement authorities.
- The U.S. Department of Transportation regulations are not intended to determine legal liability for accidents involving motor carriers. The DOT leaves the determination of legal liability to the court system.
- There is no law, regulation, or industry standard that requires truck drivers to be in constant communication with the motor carrier for which they are driving. Benton Express' policy that its road drivers need contact the company only in "unusual" situations is perfectly acceptable.
- No hours of service or logbook violations by Craig Stephens have anything to do with the accident that is the subject of this case. If anything, the fact that Craig Stephens was given a written reprimand for a violation of the DOT "70-hour rule"

indicates that Benton Express had a system in place to monitor its drivers and that it was acting as a safe and reasonably prudent motor carrier.

The opinions expressed herein are expressed with a reasonable degree of professional certainty within the trucking industry.

I have caused this report of my opinions to be prepared, and it is true and correct to the best of my knowledge. I reserve the right to amend, append, revise, or supplement this report when other materials are provided to me through further discovery or if anything causes my opinions to change.



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Gregory A. Brockwell  
Attorneys for Defendant Benton Express, Inc.

**OF COUNSEL:**

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing has been served on the following via U.S. mail, postage prepaid and properly addressed on this the 31<sup>st</sup> day of October, 2005:

Jere L. Beasley  
LaBarron N. Boone  
Julia A. Beasley  
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Of Counsel

## Curriculum Vitae

Robert C. Tynes  
President  
Bob Tynes & Associates, Inc.

### Office Address

Bob Tynes & Associates  
8619 Stone Creek Court  
Douglasville, Georgia 30135  
(770) 942-2731  
E-Mail: rtynes@mediaone.net

### Biographical Data

Birth Date: July 23, 1948  
Place of Birth: Winter Haven, Florida  
Citizenship: United States

### Education

#### **One Year Graduate Work**

Rollins College  
Winter Park, Florida  
Major: Criminal Justice

#### **Bachelor of Science, Summer 1973**

Florida State University  
Tallahassee, Florida  
Major: Criminology  
Minor: Psychology



Curriculum Vitae  
Robert C. Tynes

## Honors and Awards

- Federal Highway Administration - Administrator's Award for Superior Achievement - 1991
- Greater Lansing Federal Executive Association - Employee of the Year - 1988
- U.S. DOT, Transportation Safety Institute - Outstanding Performance in the development and presentation of training courses - 1992
- U.S. DOT, Transportation Safety Institute - Continued Superior Performance as Associate Staff in the Motor Carrier Safety Program - 1994

## Work Experience

### **Consultant**

Bob Tynes & Associates Inc.  
P.O. Box 6389  
Douglasville, Georgia 30135  
1999- Present

- Provide safety regulatory consulting services to the motor carrier industry regarding the application of the Federal Motor Carrier Safety Regulations (FMCSR) and the Hazardous Materials Regulations (HMR).
- Conduct seminars for industry regarding the FMCSR and HMR.
- Provide Expert testimony services to clients regarding the FMCSR and standard industry operational practices.

### **State Director**

## Curriculum Vitae

Robert C. Tynes

U.S. Department of Transportation  
Federal Highway Administration  
Office of Motor Carriers  
Georgia Division  
1994-1999

- Supervised the activities of eight Safety Investigators and approved their compliance reviews and enforcement cases.
- Evaluate Safety Investigator's knowledge, interpretive ability and application of the Federal Motor Carrier Safety Regulations (FMCSR)
- Issued civil forfeiture letters to motor carriers for violations of the FMCSR.
- Make formal presentations to industry, enforcement agencies and other interested parties regarding interpretation and application of the FMCSR.
- Coach new Safety Investigators and assure they possessed a thorough understanding of the FMCSR prior to working on their own.
- Represent the Agency in proceedings before various branches of government in offering testimony regarding the application of the FMCSR and other agency policies and procedures.

## **Federal Programs Manager**

U.S. Department of Transportation  
Federal Highway Administration  
Office of Motor Carriers  
Region 4  
Atlanta, Georgia  
1990-1994

- Supervise the enforcement and compliance review activities of 54 Safety Investigators in the eight states in Region 4, approving enforcement cases and evaluating their application of the FMCSR.
- Provide training to the eight states in Region 4 regarding the accurate and appropriate development of enforcement actions against non-compliant carriers.
- Train Safety Investigators and provide daily guidance to the eight states in the Region regarding interpretation of the FMCSR and the Hazardous Materials Regulations (HMR).
- Served as Regional Drug Testing Expert. In this ancillary duty, I provided training for Safety Investigators, State enforcement personnel and industry in application of the drug testing regulations.
- Performed as primary public speaker for the Region regarding interpretation and application of FMCSR. Appeared on behalf of Regional Director at various conventions, association meetings and state enforcement seminars.

## **State Programs Manager**

U.S. Department of Transportation  
Federal Highway Administration

#### Curriculum Vitae

Robert C. Tynes

Office of Motor Carriers

Region 4

Atlanta, Georgia

1989-1990

- Monitored and evaluated the enforcement, compliance review and vehicle inspection activities of the eight state commercial vehicle enforcement programs in Region 4.
- Evaluated and monitored training in FMCSR and HMR provided to various states by the Transportation Safety Institute, other states and organizations.
- Evaluated and approved/disapproved State Enforcement Plans in grant application through the Motor Carrier Safety Assistance Program. Managed over \$5 million in grants through this program to the states.

#### **State Program Specialist**

U.S. Department of Transportation

Federal Highway Administration

Office of Motor Carriers

Michigan Division Office

Lansing, Michigan

1987-1989

- Monitored and evaluated the enforcement, compliance review, and vehicle inspection activities of the state of Michigan's commercial vehicle enforcement program
- Evaluated and monitored training in FMCSR and HMR provided to Michigan by the Transportation Safety Institute, other states and organizations.
- Evaluated and approved/disapproved Michigan's State Enforcement Plans in grant application through the Motor Carrier Safety Assistance Program.

#### **Safety Investigator**

U.S. Department of Transportation

Federal Highway Administration

Office of Motor Carriers

Michigan Division Office

#### Curriculum Vitae

Robert C. Tynes

Lansing, Michigan

1986-1987

- Conducted Compliance Reviews and prepared enforcement cases against non-compliant carriers.
- Answered technical questions for carriers and the general public regarding the FMCSR and the HMR.
- conducted motor vehicle roadside inspections to determine the compliance of the driver and the vehicle to the requirement of the FMCSR and the HMR.
- conducted numerous training seminars for industry and other interested parties regarding the FMCSR and the HMR.
- Applied and interpreted the FMCSR and HMR in conducting my daily work.

#### **Special Agent**

Interstate Commerce Commission

Bureau of Investigations and Enforcement

Washington DC

Chicago, Illinois

Lansing, Michigan

1976-1986

- One of only three Special Agents in the Chicago Regional Office of the ICC. Handled the more complex and extensive investigations of violations of the economic and safety regulations.
- Primary instructor for the ICC National Training Center in Washington, DC.
- Conducted several national high profile investigations involving violations of the Clayton Act, Elkins Act, and Racketeering statutes.

#### **Safety Enforcement Officer**

Florida Public Service Commission

Field Office

Orlando, Florida

1973-1976

## Curriculum Vitae

Robert C. Tynes

- Conducted Compliance Reviews and prepared enforcement cases against non-compliant motor carriers.
- Answered technical questions for carriers and the general public regarding the FMCSR and the HMR. (Florida had adopted the Federal Motor Carrier Safety Regulations in total)
- conducted motor vehicle roadside inspections to determine the compliance of the driver and the vehicle to the requirement of the FMCSR and the HMR.
- conducted numerous training seminars for industry and other interested parties regarding the FMCSR and the HMR.
- Applied and interpreted the FMCSR and HMR in conducting my daily work.

## Special Accomplishments

- Chaired National Enforcement Quality Team - Federal Highway Administration - 1993-1998 - Developed new and innovative FMCSR enforcement methods adopted nationwide by the agency.
- With one other person developed and implemented the Department's (DOT) first drug interdiction program for commercial motor vehicles. This highly successful program, named operation DEACON, exists yet today as project DIAP.
- Served as primary contract officer for the FHWA in a National Uniformity Study designed to determine the uniform application of the FMCSR, HMR and agency review and enforcement procedures nationally.
- Prepared and presented to the Congress of the United States a report on the safety practices of Owner/Operators working in the transportation of exempt commodities.

## Conference Presentations

- Interviewing Strategy, Techniques and Tactics - Presented nationwide, both at the ICC and within the FMCSA.
- Investigative Techniques Related to Litigation - Presented nationwide while at the ICC.

## Curriculum Vitae

Robert C. Tynes

□ Managing Your DOT Audit - Presented to industry during 1999-2000.

## Teaching Experience

- Federal Programs Management - Transportation Safety Institute, Oklahoma City, OK - 1993 to 1999. (Topics covered entire scope of FMCSR and HMR.)
- Motor Carrier Enforcement - Transportation Safety Institute, Oklahoma City, OK - 1993 to 1999. (Topics included elements of proof for cases in FMCSR and HMR.)
- Effective Presentation Techniques - Transportation Safety Institute, Oklahoma City, OK - 1990 to 1999.

## Associations - Memberships

Chairman Georgia Council for Commercial Vehicle Safety - A joint public private organization promoting Commercial Motor Vehicle safety on GA roads.

Seat on liaison committee for GA Network of Employers for Transportation Safety

Associate Member, Georgia Motor Trucking Association.

Associate Member, Florida Trucking Association.

Associate Member, American Pyrotechnics Association.

Associate Member, National Association of Chemical Distributors.

## Professional References

Mr. Ed Crowell  
President  
Georgia Motor Trucking Association  
1280 West Peachtree Street NW  
Suite 300  
Atlanta, Georgia 30309  
(404) 876-4313

Curriculum Vitae

Robert C. Tynes

Mr. Thomas Marlow  
State Director  
US DOT - FMCSA  
61 Forsythe Street  
Suite 17T85  
Atlanta, Georgia 30303  
(404) 562-3622

Mr. James Keenan  
Director  
US DOT - FMCSA  
Washington, DC  
(202) 366-2966

Following are the cases in which Robert C. Tynes has testified or provided a deposition during the past five years:

1. Burkhart v. Schneider National Carriers, et. al. Deposition  
Civil Action No. 99C5355 Trial Testimony
2. Andrew S. Melton v. Schneider National Carriers, Inc. Deposition  
Circuit Court of Cook County Illinois  
No. 99 L 10591
3. Glen Albert Beddingfield, et al. v. Transport Leasing/Contract Inc.,et al. Deposition  
Circuit Court of Jefferson County, Alabama Trial Testimony  
Civil Action No. CV0000-391  
  
Bytrice Crawford v. Mercer Trucking, Inc., et al.  
Circuit Court of Jefferson County, Alabama  
Civil Action No. 00-1066 JSV  
  
Roger and Tami Nash, et al., v. Transport Leasing/Contract, Inc., et al.  
Circuit Court of Jefferson County, Alabama  
Civil Action No. CV0000-640
4. Trucks, Inc. v. United States of America Deposition  
Civil Action No. 1:96-CV-800-CC Trial Testimony  
Norther District of Georgia
5. Canal Insurance Company v. Barbara Haniewski, et al. Deposition  
Superior Court of New Haven Connecticut Trial Testimony  
CV 98 0417942 S
5. Susan Landando v. Dale Johnson Trucking, et.al. Deposition  
Twelfth Judicial Circuit  
Will County Illinois  
No. 99 SC 4820
5. Chambers v. Penske Truck Leasing, Inc., et al Deposition  
Thirteenth Judicial Circuit Trial Testimony  
Hillsborough County Florida  
No. 02-02766



8. Scott Puls v. Nationwide-Southeast Inc. Trial Testimony  
Tenth Judicial Circuit  
Polk County Florida  
No. GCG-2001-2259
9. Aimee & Eric Powell v. Sunbelt Transport, Inc. Deposition  
Fourth Judicial Circuit  
Duval County Florida  
No. 02-05148 CA
10. Dionisio v. AAA Cooper, et. al. Deposition  
Eleventh Judicial Circuit  
Miami-Dade County  
No. 00-28639 CA 09
11. Thomas Goodwin v. Kent A. Dolezal Deposition  
Schneider National Carriers, Inc. and Raymond Burton  
D/A: 11/08/01
11. Jones v. Schneider National Carriers, et. al. Deposition
11. Beverly Calhoun v. United Parcel Service Hearing Testimony
14. Andersen v. Schneider National Bulk Carriers, Inc. Deposition  
In the Circuit Court of Jefferson County, Alabama  
Civil Action No.: CV03 5753
15. Claudia A. McNabb v. Schneider National Carriers, Inc. Hearing Testimony  
United States District Court For The Eastern District  
Of Pennsylvania  
No. 03-5813
16. Deborah Hyden et al. v. Central Trucking, Inc. Deposition  
In The Superior Court for the State of Arizona  
In and For the County of Maricopa  
No. CV2002-019148
17. Cathy Grindle, et al. v United Parcel Service Deposition  
State Of Alabama In The Circuit Court Of Etowah County  
Civil Action No.: CV-03-1027
18. Cruz v. Transit Group Transportation, Inc. Deposition  
In The Circuit Court Of The Eighth Judicial Circuit

In And For Alachua County, Florida  
Case: 01-03CA-2491

18. Authur Haynes v. Crete Carrier Corporation, Inc. Deposition  
In The Circuit Court of Lowndes County, Alabama  
Case Number: CV 03-111
18. Douglas R. Peters et al. v. Comcar Industries, Inc. et al. Deposition  
In The Circuit Court of the 15<sup>th</sup> Judicial Cuircuit  
In And For Palm Beach County, Florida  
Civil Action Case No.: 50 2004CA00483XXXXMB AJ
18. OOIDA v. USIS f/k/a DAC Services, Inc. Deposition  
\_\_\_\_ In The United States District Court  
For The District of Colorado  
Civil Action 04-RB-1384(CBS)